

of the judicial department to say what the law is.

Does this administration agree that it is emphatically the province and the duty of the judicial department to say what the President's authority is under article II of the Constitution? No. It is the President, according to this Office of Legal Counsel, who decides the limits of his own article II power. The question "whether an action is a lawful exercise of the President's authority under article II" is to be determined by the President's own minions "exercising his constitutional authority under article II." It really makes one wonder: Where do they get these people? You have to be smart, you have to be really bright to get a job within the Office of Legal Counsel. How can people who are so smart be so misguided?

And then it gets worse. Remember point 3:

The Department of Justice is bound by the President's legal determinations.

Let that sink in a minute. "The Department of Justice is bound by the President's legal determinations." We are a nation of laws, not of men. This Nation was founded in rejection of the royalist principle that "the king can do no wrong." Our Attorney General swears an oath to defend the Constitution and the laws of the United States. We are not some banana republic in which the officials all have to kowtow to a supreme leader.

Imagine this in another context. Imagine a general counsel to a major U.S. corporation telling his board of directors: In this company, the counsel's office is bound by the legal determinations of the CEO.

The board ought to throw that lawyer out. That is malpractice and probably even unethical.

Wherever you are, if you are watching this, do me a favor: The next time you are in Washington, DC, take a taxi some evening to the U.S. Department of Justice. Stand outside. Look up at that building shining against the starry night. Look at the sign outside: The United States Department of Justice. Think of the heroes who have served there. Think of the battles fought. Think of the late nights, the brave decisions, the hard work of advancing and protecting our democracy that has been done in those halls. Think about how all that makes you feel.

Then think about this statement:

The Department of Justice is bound by the President's legal determinations.

If you don't feel a difference from what you were feeling a moment ago, well, I guess congratulations because there is probably a job for you somewhere in the Bush administration. Consider the sad irony that this theory was crafted in that very building by the George W. Bush Office of Legal Counsel.

In a nutshell, these three Bush administration legal propositions boil down to this: One, I don't have to follow my own rules, and if I break them, I don't have to tell you that I am

breaking them; two, I get to determine what my own powers are; and three, the Department of Justice doesn't tell me what the law is, I tell the Department of Justice what the law is.

When the Congress of the United States is willing to roll over for an unprincipled President, this is where you end up. We should not even be having this discussion, but here we are. I implore my colleagues on both sides of the aisle: Reject these feverish legal theories. I understand political loyalty; trust me, I do. But let's also be loyal to this great institution we serve in the legislative branch of Government. Let us also be loyal to the Constitution we took an oath to defend from enemies foreign and domestic. And let us be loyal to the American people who live each day under that Constitution's principles and protections.

We simply cannot put the authority to wiretap Americans whenever they step outside America's boundaries under the exclusive control and supervision of the executive branch. We do not allow it when Americans are at home; we should not allow it when they travel abroad.

The principles of congressional legislation and oversight and of judicial approval and review are simple and longstanding, and Americans deserve their protection wherever on God's green Earth they may travel.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

TEFAP EMERGENCY FUNDING

Mr. BROWN. Mr. President, yesterday, I stood on the Senate floor and asked for emergency funding for the Nation's food banks. I asked for that funding because there are massive shortages of food bank supplies, empty shelves, and those shortages place at risk children, the elderly, and working families, people who have lost jobs, people who have had a string of bad luck, and families across this Nation.

I spoke yesterday of Norm, an elderly man in Cleveland, who, after spending his few dollars on rent, on utilities, and medicine, has \$19 left. He needs the Cleveland Food Bank. The Cleveland Food Bank, I would add, was awarded the best food bank in the country last year, but it is running short, as are food banks everywhere in this country.

I spoke yesterday of Christian, who has trained to be a nurse's assistant, and who just gave birth. She is unable to find a job as a nurse's assistant, even though she is well trained to do that. She runs short of food, and she relies on, as does Norm, neighborhood food programs, such as the Cleveland Food Bank and other church groups in greater Cleveland.

In too many cases there is no dinner on the table. In too many cases there is no food at Christmas time. In too many cases there is just not enough food. We are the wealthiest Nation in the world.

Yet we cannot feed our own people. This is an emergency. This is an outrage.

Yesterday, I talked about emergency funding to overcome that shortage. We asked for \$40 million until we pass the farm bill, which will have some dollars in it to provide some supply for these food banks. We found out that food banks are projecting they will run out of food in February, when originally they thought it would last until July.

In case after case, food banks in Cleveland, in Columbus, in Toledo, and Cincinnati, food banks in the Chair's city of Baltimore, and food banks all over this country are running out of food. Grocery stores are contributing a little less this year, and the Government has not done its part.

Yesterday, I talked about some \$40 million in funding to overcome that shortage, and today I want to talk about how to pay for it. We can pay for it through shared sacrifice. The budget for Congress includes firewood for fireplaces in the Capitol, fireplaces, in most cases, that don't get used. When children are hungry, we can give up fireplaces. We can give up some travel and some new technology. We can make easy sacrifices to address a tragic need.

The budget for Federal agencies includes annual buying sprees to exhaust whatever is left in departmental budgets. When children are hungry, buying sprees are offensive. We can sacrifice. We can pay for emergency funding for food banks by putting our heads together and shaving some less necessary spending from our own budgets and that of Federal agencies whose oversight is our responsibility. I am asking that we do that. Food banks need resources. We don't need firewood, we don't need buying sprees, and we can do without some other things. We need to help hungry people.

I am going to propose a package of cuts to pay for an emergency increase in food bank funding. I hope every Member of this body supports me.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 6

Mr. HARKIN. Mr. President, for the benefit of all Senators and those at their desks, right now we are going to try to get back on the farm bill. As you know, an agreement was reached last night between the majority leader and the Republican leader on the process we will be following, so I am going to